

# HOUSE BILL REPORT

## SHB 1597

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**As Reported by House Committee On:**  
Finance

**Title:** An act relating to improving the administration of state and local tax programs without impacting tax collections by providing greater consistency in numerous tax incentive programs, revising provisions relating to the confidentiality and disclosure of tax information, and amending statutes to improve clarity and consistency, eliminate obsolete provisions, and simplify administration.

**Brief Description:** Concerning the administration of state and local tax programs.

**Sponsors:** House Committee on Finance (originally sponsored by Representatives Springer and Hunter; by request of Department of Revenue).

**Brief History:**

**Committee Activity:**

Finance: 2/5/09, 3/2/09 [DPS]; 1/22/10, 1/28/10, 1/29/10 [DP2S].

**Brief Summary of Second Substitute Bill**

- Revises provisions relating to the confidentiality and disclosure of tax information.
- Makes technical and other changes to the excise, estate, and property tax laws.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 6 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Conway, Ericks, Santos and Springer.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Orcutt, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Condotta.

**Staff:** Rick Peterson (786-7150).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

## **Background:**

### Confidential Taxpayer Information.

The Secrecy Clause, RCW 82.32.330, is the law that prohibits the Department of Revenue (DOR) employees from disclosing excise tax returns or tax information about specific taxpayers to unauthorized persons. This law defines the circumstances under which documents may be disclosed and to whom. Generally all excise tax information is confidential and may not be disclosed to the public without the taxpayer's permission or other statutory authorization.

### Property Tax.

All real and personal property in Washington is subject to property tax, unless a specific exemption is provided by law. In general, the property tax is administered on a local level by county assessors, who assess property for tax purposes, and county treasurers, who are responsible for collection of the property tax. However, the DOR is responsible for the general supervision and control over the administration of property tax.

### Technical Corrections and Clarifications.

Legislation frequently includes statutory references to tie new laws or amendments to existing definitions or related statutory provisions. If changes are subsequently made to these statutes, the references may become incorrect. Also when statutes include provisions tied to expiration dates, they may later become obsolete for purposes of any statutory references. Agencies which administer statutes with incorrect or obsolete references often suggest statutory revisions for the purpose of increasing clarity or improving administration.

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## **Summary of Second Substitute Bill:**

The summary below highlights the effect of each part of the bill. In addition to these changes, technical corrections are made to various provisions related to excise, estate, and property tax laws. These changes include:

- correcting drafting errors, structural problems such as RCW strings that are not in numeric order, inaccurate references to terms that have been changed, and inaccurate cross-references;
- adding or modifying language to clarify statutory provisions; and
- repealing several obsolete provisions of code.

### Part One - Confidentiality.

Various statutes are modified that relate to confidentiality of tax information. Miscellaneous changes to tax returns and tax information include:

- adding the estate tax to the list of confidential tax returns; and
- authorizing cities to make taxpayer information for municipal business and occupation (B&O) taxes confidential.

The DOR is authorized to disclose:

- tax information to the Streamlined Sales Tax Governing Board and member states for purposes of conducting sales tax audits, and auditing certified service providers, or certified automated systems providers;
- tax information to a person whom the DOR has asserted liability against under the estate tax;
- limited real estate excise tax (REET) information to filed REET affidavits; and
- names of taxpayers with unpaid tax warrants (by removing the current \$5,000 threshold).

#### Part Two - Clarifications.

This section makes substantive changes and clarifies several drafting ambiguities and statutory references. Substantive changes include:

- expanding the B&O tax exemption for fundraising sales to include public libraries;
- allowing non-residents to use a uniform streamline sales tax agreement exemption certificate to qualify for sales tax exemption;
- changing the diesel fuel exemption for farmers from non-highway uses to agricultural purposes;
- allowing utility-owned community solar electrical projects to participate in public utility tax credits for renewable energy system cost recovery;
- requiring enhanced food fish taxpayers to file returns electronically;
- allowing sellers of advertising and promotional direct mail to source in-state sales to the place the mail was delivered or the location of the printer; and
- changing the responsibility to administer any local fuel taxes from the Department of Licensing to the DOR.

The section clarifies:

- that vending-machine sales of soft drinks and dietary supplements are taxed on 100 percent of the gross sales;
- the estate tax deduction for property used for farming by eliminating redundant language about tangible personal property in unrelated subsections;
- that the motor vehicle fuel tax and the special fuel tax do not pre-empt other state taxes, such as the B&O tax, on the business of manufacturing, selling, or distributing motor vehicle fuel; and
- that sellers are not required to collect use tax from purchasers on sales that are exempt from sales tax but not use tax.

#### Part Three - Property Tax.

Various property tax statutes are modified that deal with or affect administering the property tax laws of the state. The bill allows the DOR to convert informal appeals before the State Board of Tax Appeals to formal appeals, and allows the transfer of property to a surviving domestic partner without triggering the higher farm income thresholds in the farm and agricultural current use program. The bill eliminates duplicate audits of the low-income property tax deferral program by the Joint Legislative Audit and Review Committee, and makes the reporting consistent with the review of tax preferences schedule, and eliminates the requirement for county assessors to furnish the State Auditor with an abstract of the tax rolls. The bill makes two reference dates to federal law the same within the senior property tax relief law and allows the DOR to update the reference by rule in a way that is consistent with the purpose.

The bill extends the time period for exemption renewal under the senior property tax relief program from four to six years. It also allows recovery of back taxes for up to five years if an exemption was based on erroneous information. The special assessments eligible for deferral under the low-income property tax deferral program are limited to those that are listed on the annual property tax statement.

In addition, the substitute bill removes the requirement that the county legislative authority levy taxes "at its October session," making it consistent with another law that states counties have until November 30 to certify their levy to the county assessor, and repeals language that adjusts the 1 percent limit calculation for a now unused tax increment financing law. Finally, the substitute bill provides a property tax exemption for property leased to a county hospital, and defines child day care center for property tax exemptions.

#### Part Four - Miscellaneous.

This section amends several miscellaneous provisions such as severability clauses, application date clauses, effective and expiration dates, and codification directions.

#### **Second Substitute Bill Compared to Substitute Bill:**

The second substitute bill updates the first substitute bill for law changes adopted during the 2009 session. In addition the following changes are made:

Part One, related to tax incentive accountability, is removed.

The definition of wholesale sale includes sales for resale of retail services. The definition of consumer includes a person providing tangible personal property with an operator in rendering services defined as a retail sale. A reference to a now deleted definition of a "booth renter" is replaced by the definition of a "booth renter" as it existed prior to its deletion in 2002. The general sales tax imposition statute is amended to specifically enumerate the products and services that are subject to sales tax.

In order to conform to the Streamlined Sales and Use Tax Agreement a statute related to a sales tax exemption for nonresidents is amended to remove a requirement that the seller must, in good faith, examine the purchaser's proof of non-residence. The second substitute bill clarifies that log haulers are allowed to use the lower urban transportation business tax when operating within urban areas. In 2009 the Legislature (in Engrossed Substitute Senate Bill 6170) extended the investment cost-recovery incentive program for renewable energy systems to "community solar projects." The investment cost-recovery statutes are modified so that all utilities are eligible to participate in the investment cost recovery program through involvement in a community solar project, not just those that have less than 1,000 megawatt hours of annual sales.

The requirement that all monthly excise taxpayers pay their taxes by electronic fund transfers is extended to the enhanced food fish tax. Sellers of advertising and promotional direct mail may source in-state sales to the place where the mail is delivered or the location of the printer. The second substitute bill extends the time for exemption renewal under the senior

property tax relief program from four to six years. It allows recovery of back taxes for up to five years if an exemption was based on erroneous information.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Second Substitute Bill:** The bill takes effect July 1, 2010, except section 212 which reinstates prior law that specifically lists the item subject to retail sales tax takes effect January 1, 2011, and section 236 which reinstates prior law relating to the estate tax and takes effect January 1, 2014.

**Staff Summary of Public Testimony:**

(In support) This bill makes substantive and technical changes to the tax code. It takes 17 different statutes on accountability reports and breaks it down to two, which makes it consistent with the same definition and standards and easier for the taxpayer. This bill incorporates changes that the Code Reviser's Office wanted (i.e. out-dated cross-references). The proposed substitute bill includes adding in-state printers as those eligible to source their tax by their location or destination.

(In support with concerns) We support the general direction of the bill and particularly like the provisions that simplify the accountability reports. However, it is a very large bill with a broad title, which is a magnet for amendments to get attached to it and decreasing the likelihood of it passing. We would prefer a more targeted approach, like that found in Senate Bill 6326 or House Bill 3066.

(Opposed) None.

**Persons Testifying:** (In support) Drew Shirk, Department of Revenue.

(In support with concerns) Amber Carter, Association of Washington Business.

**Persons Signed In To Testify But Not Testifying:** None.